

The rejections set forth in the final Office Action are the same as those set forth in the first Office Action. Accordingly, Applicants' response refers to the Response to Applicant's Amendment set forth in numbered paragraphs 3-11 on pages 2-5 of the Office Action.

The Examiner states that the remote ordering of food over the internet disclosed by Camaisa is clearly directed to electronic commerce. However, the support required for the ordering of food over the Internet is different from the electronic commerce support claimed by Applicants for providing electronic commerce services. Primarily, there is relatively little delay between the time food is ordered and the time the food is consumed or delivered, and therefore only a limited amount of present status of processing information is needed by the user.

For example, regarding payment, food is generally paid for after consuming the food or upon receipt of the delivery. Further, although one order for food may have several items, it is expected that each of the items will be delivered at the same time and that only one payment for the total order will be made. Accordingly, Camaisa et al falls short of disclosing the providing of electronic commerce services that involve receiving trading processing information including a present status of processing for processing initiated for an order, present status of processing for delivery of the product corresponding to the order and the present status of

processing for payment processing for the trading, as claimed by Applicants.

With respect to the status of order processing, Camaisa et al merely disclose that once an order for food is placed, the order is printed and/or notified to the remote computer in step 1122, shown in Fig. 3. In Fig. 5, after the processing of the steps in Fig. 3 have been completed, Camaisa et al disclose that the order status can be checked in a step 1306, as pointed out in the Office Action. The order status information is displayed at state 1308 in Camaisa et al. The Office Action states that a reasonable inference to be drawn from this disclosure is that the status to be displayed at state 1308 includes the present status of processing, delivery and payment. However, as explained at column 15, lines 18-20, of Camaisa et al, the order status information is already provided before the status inquiry procedure becomes available as an option. Accordingly, one having ordinary skill in the art would not infer that the order status information (1308) includes the present status for processing initiated for the order.

With respect to the present status of the processing of payment, there is no disclosure by Camaisa et al of updating the status of a payment being processed. Rather, Camaisa et al merely disclose that a personal credit card can be used, for example, to make reservations in the data base (see column 17, lines 8-17). Accordingly, it is not reasonable to infer

that the order status information displayed at state 1308 includes the present status of processing initiated for an order and the present status of processing for payment for the trading, as claimed by Applicants.

It is submitted that the step of receiving trader processing information including a present status of the processing of the processing of the order, the processing of the delivery of the order and the processing of the payment for the order could only be considered obvious, if at all, when viewed with the hindsight of having Applicants' invention as a guide.

Pertinent here is the 1992 Court of Appeals for the Federal Circuit decision in the case of In Re Fritch, 23 U.S.P.Q. 2d at 1780, wherein the court stated:

"The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification." (23 U.S.P.Q. 2d at 1783-4).

It is submitted that the Examiner is relying upon hindsight to arrive at the determination of obviousness. Thus, as the court further noted in Fritch at 23 USPQ 2nd at 1784:

"It is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious."

Applicants assert that the Examiner has not set forth any basis for arriving at an interpretation of Camaisa et al which provides the motivation necessary to suggest Applicants'

claimed combination. Camaisa et al is directed to a food order processing system that inherently does not include the need for monitoring the processing of an order, or monitoring the processing of the payment. Accordingly, each of independent claims 1, 17 and 25 are patentable over Camaisa et al.

Each of the dependent claims is patentable for depending from a patentable independent claim. Additionally, several of the dependent claims are separately patentable therefrom.

For example, claim 6 sets forth the displaying of trading for which delivery has been completed separately from the trading for which delivery has not been completed.

The Office Action sets forth that the Towle (UPS) reference discloses the tracking of shipments so that a reasonable inference can be drawn that the delivery status provided in the UPS system would have included whether the package was delivered. Further, the Office Action states that Applicants' admitted prior art discloses that a credit card company displays information periodically to their customers with respect to settled purchases. However, neither the reference to Towle or the Applicants' admitted prior art suggests to one having ordinary skill in the art to modify a food ordering service, such as that disclosed by Camaisa et al, to display delivery that has been completed separately from delivery that has not yet been completed.

It is expected that the status of the delivery of an order of food, even one containing several items, is that either the order has been delivered in its entirety or has not yet been delivered. The same comments apply to the UPS system disclosed by Towle, which is adapted to tracking shipments of packages. Further, the credit card company description provided by Applicants does not address the issue of separately displaying the trading for which delivery has been completed from the trading for which delivery has not been completed. Accordingly, claim 6 and correspondingly claims 7 and 8 should be found allowable.

Claims 11 and 21 are similar to each other with respect to reciting a server that includes a shopping server, a payment managing server and a delivery managing server. The Office Action states that these claims are obvious under 35 U.S.C. § 103 over the combination of Camaisa et al in view of Cameron et al, U.S. Patent No. 5,592,378. However, each of claims 11 and 21 is directed to the differences between the invention and that of Camaisa et al.

Each of claims 11 and 21 is directed to that part of Applicants' invention in which separate servers are used in the processing of sales of products, payment management and delivery management of the products. Separate servers are not required in a system such as that disclosed by Camaisa et al, since the commerce to which Camaisa et al is directed to managing is that of food ordering. As previously stated, the

time between placing an order and delivering the food in accordance with the order is relatively short. Therefore, the number and complexity of the orders being handled by the Camaisa et al system is not suggestive of a need to provide separate servers as claimed by Applicants. As a result, claims 11-14 and 21, 22 should be found to be separately patentable from the independent claims from which they depend.

Applicants request reconsideration of the rejections in view of foregoing comments and further incorporate herein the comments set forth in the Amendment filed June 7, 1999 with respect to the rejection of claims not specifically addressed herein. Accordingly, reexamination and reconsideration are respectfully requested.

Respectfully submitted,



John R. Mattingly
Registration No. 30,293
Attorney for Applicants

FAY, SHARPE, BEALL,
FAGAN, MINNICH & MCKEE
104 East Hume Avenue
Alexandria, Virginia 22301
(703) 684-1120
Date: December 3, 1999